

NATURAL RESOURCES CODE  
CHAPTER 117. HAZARDOUS LIQUID OR CARBON DIOXIDE PIPELINE  
TRANSPORTATION INDUSTRY  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 117.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Hazardous liquid" means:

(A) petroleum or any petroleum product; and

(B) any substance or material which is in liquid state, excluding liquefied natural gas, when transported by pipeline facilities and which has been determined by the United States secretary of transportation to pose an unreasonable risk to life or property when transported by pipeline facilities.

(3) "Transportation of hazardous liquids or carbon dioxide" means the movement of hazardous liquids or carbon dioxide by pipeline, or their storage incidental to movement, except that it does not include any such movement through gathering lines in rural locations or production, refining, or manufacturing facilities or storage or in-plant piping systems associated with any of those facilities.

(4) "Pipeline facilities" includes new and existing pipe, rights-of-way, and any equipment, facility, or building used or intended for use in the transportation of hazardous liquids or carbon dioxide.

Added by Acts 1983, 68th Leg., p. 4914, ch. 873, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1993, 73rd Leg., ch. 28, Sec. 2, eff. Sept. 1, 1993.

SUBCHAPTER B. JURISDICTION, POWERS, AND DUTIES

Sec. 117.011. JURISDICTION. (a) The commission has jurisdiction over all pipeline transportation of hazardous liquids or carbon dioxide and over all hazardous liquid or carbon dioxide pipeline facilities as provided by 49 U.S.C. Section 60101 et seq.

(b) The commission may seek designation by the United States secretary of transportation as an agent to conduct safety inspections of interstate hazardous liquid or carbon dioxide pipeline facilities located in this state.

Added by Acts 1983, 68th Leg., p. 4914, ch. 873, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1993, 73rd Leg., ch. 28, Sec. 3, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 951, Sec. 1, eff. June 18, 1997.

Sec. 117.012. RULES AND STANDARDS. (a) The commission shall adopt rules that include safety standards for and practices applicable to the intrastate transportation of hazardous liquids or carbon dioxide by pipeline and intrastate hazardous liquid or carbon dioxide pipeline facilities, including safety standards related to the prevention of damage to such a facility resulting from the movement of earth by a person in the vicinity of the facility, other than movement by tillage that does not exceed a depth of 16 inches.

(b) Rules that adopt safety standards do not apply to movement of hazardous liquids or carbon dioxide through gathering lines in rural locations or production, refining, or manufacturing facilities or storage or in-plant piping systems associated with any of those facilities.

(c) The safety standards adopted by the commission in its rules must be compatible with those standards established by the United States secretary of transportation under the Hazardous Liquid Pipeline Safety Act of 1979 (Pub.L.No. 96-129).

(d) The commission may adopt rules that require a hazardous liquid pipeline facility to prepare and submit for commission approval a facility response plan for all or any part of a hazardous liquid pipeline facility located landward of the coast. Rules shall require the facility response plan to include plans for responding, to the maximum extent practicable, to a worst case discharge and to a substantial threat of such a discharge of hazardous liquids that could reasonably be expected to cause substantial harm to the environment by discharging into navigable waters.

(e) Rules relating to facility response plans shall be consistent with the provisions of the federal Water Pollution Prevention and Control Act, 33 U.S.C. Section 1321(j)(5). Rules shall provide that, in lieu of submitting a plan for approval under Subsection (a), a facility may submit a facility response plan prepared in compliance with the Water Pollution Prevention and

Control Act, 33 U.S.C. Section 1321(j)(5). A plan approved or pending approval by the United States Department of Transportation Office of Pipeline Safety shall be deemed approved by the commission for the purposes of this section.

(f) Rules relating to facility response plans do not apply to a hazardous liquid pipeline facility that is required to implement a discharge prevention and response plan under the Oil Spill Prevention and Response Act of 1991, Chapter 40, Natural Resources Code.

(g) The commission shall adopt rules regarding:

(1) public education and awareness concerning hazardous liquid or carbon dioxide pipeline facilities; and

(2) community liaison for the purpose of responding to an emergency concerning a hazardous liquid or carbon dioxide pipeline facility.

(h) The commission shall require operators or their designated representatives to communicate and conduct liaison activities with fire, police, and other appropriate public emergency response officials. The liaison activities must be conducted by meetings in person except as provided by this section. An operator or the operator's representative may conduct required community liaison activities as provided by Subsection (i) only if the operator or the operator's representative has made an effort, by one of the following methods, to conduct a community liaison meeting in person with the officials:

(1) mailing a written request for a meeting in person to the appropriate officials by certified mail, return receipt requested;

(2) sending a request for a meeting in person to the appropriate officials by facsimile transmission; or

(3) making one or more telephone calls or e-mail message transmissions to the appropriate officials to request a meeting in person.

(i) If the operator or operator's representative cannot arrange a meeting in person after complying with Subsection (h), the operator or the operator's representative shall make an effort, by one of the following methods, to conduct community liaison activities by means of a telephone conference call with the officials:

(1) mailing a written request for a telephone conference to the appropriate officials by certified mail, return receipt requested;

(2) sending a request for a telephone conference to the appropriate officials by facsimile transmission; or

(3) making one or more telephone calls or e-mail message transmissions to the appropriate officials to request a telephone conference.

(j) If the operator or the operator's representative has made the efforts required by Subsections (h) and (i) but has not successfully arranged a meeting in person or a telephone conference, the community liaison information required to be conveyed may be delivered by mailing the information by certified mail, return receipt requested.

(k) The commission by rule shall require the owner or operator of each intrastate hazardous liquid or carbon dioxide pipeline facility any part of which is located within 1,000 feet of a public school building containing classrooms, or within 1,000 feet of another public school facility where students congregate, to:

(1) on written request from the school district, provide in writing the following parts of a pipeline emergency response plan that are relevant to the school:

(A) a description and map of the pipeline facilities that are within 1,000 feet of the school building or facility;

(B) a list of any product transported in the segment of the pipeline that is within 1,000 feet of the school facility;

(C) the designated emergency number for the pipeline facility operator;

(D) information on the state's excavation one-call system; and

(E) information on how to recognize, report, and respond to a product release; and

(2) mail a copy of the requested items by certified

mail, return receipt requested, to the superintendent of the school district in which the school building or facility is located.

(l) A pipeline operator or the operator's representative shall appear at a regularly scheduled meeting of the school board to explain the items listed in Subsection (k) if requested by the school board or school district.

(m) The commission may not require the release of parts of an emergency response plan that include security sensitive information including maps or data. Security sensitive information shall be made available for review by but not provided to the school board.

(n) In this subsection, "telecommunications service" and "information service" have the meanings assigned by 47 U.S.C. Section 153. Notwithstanding Subsection (a), this title does not grant the commission jurisdiction or right-of-way management authority over a provider of telecommunications service or information service. A provider of telecommunications service or information service shall comply with all applicable safety standards, including those provided by Subchapter G, Chapter 756, Health and Safety Code.

(o) The power granted by Subsection (a) does not apply to:

- (1) surface mining operations; or
- (2) other entities or occupations if the commission determines in its rulemaking process that exempting those entities or occupations from rules adopted under that subsection:
  - (A) is in the public interest; or
  - (B) is not likely to cause harm to the safety and welfare of the public.

Text of subsec. (p) effective until September 1, 2008

(p) The commission may not implement rules adopted under Subsection (a) regulating the movement of earth by a person in the vicinity of a facility until September 1, 2007. This subsection expires September 1, 2008.

Added by Acts 1983, 68th Leg., p. 4914, ch. 873, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1993, 73rd Leg., ch. 28, Sec. 4, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 616, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 951, Sec. 2, eff. June 18, 1997; Acts 2001, 77th Leg., ch. 1233, Sec. 61, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1082, Sec. 1, eff. June 20, 2003; Acts 2005, 79th Leg., ch. 267, Sec. 6, eff. Sept. 1, 2005.

Sec. 117.013. RECORDS AND REPORTS. (a) Each owner or operator of a pipeline engaged in the transportation of hazardous liquids or carbon dioxide within this state shall maintain records, make reports, and provide any information the commission may require under the jurisdiction granted by the Hazardous Liquid Pipeline Safety Act of 1979 (Pub.L.No. 96-129) and this chapter.

(b) The commission, by rule, shall designate the records that are required to be maintained and the reports that are to be filed by the owner or operator and shall provide forms for reports if necessary.

(c) The commission may require the owners or operators of hazardous liquid or carbon dioxide pipeline facilities to prepare and make available for inspection by its employees or agents or file for approval a procedural manual for each such facility in accordance with the requirements of Title 49, Part 195.402, Code of Federal Regulations.

Added by Acts 1983, 68th Leg., p. 4914, ch. 873, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1993, 73rd Leg., ch. 28, Sec. 5, eff. Sept. 1, 1993.

Sec. 117.014. INSPECTION AND EXAMINATION OF RECORDS AND PROPERTY. (a) The commission and its employees and designated agents may enter property on which is located pipeline facilities or any other property relating to the transportation of hazardous liquids or carbon dioxide by pipeline and may inspect and examine the records and property to the extent relevant to determine if a person is acting in compliance with this chapter and rules adopted by the commission under this chapter.

(b) Before the commission or its employees or designated agents enter property for the purposes of this section, the person requesting entry must present proper credentials to the person in charge at the property.

(c) Entry, examination, and inspection under this section may be made only at reasonable times and in a reasonable manner.

Added by Acts 1983, 68th Leg., p. 4914, ch. 873, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1993, 73rd Leg., ch. 28, Sec. 6, eff.

Sept. 1, 1993.

Sec. 117.015. COMPLIANCE WITH FEDERAL LAW. The commission shall make reports and certifications to the United States Department of Transportation and shall take any other actions necessary to comply with the Hazardous Liquid Pipeline Safety Act of 1979 (Pub.L. No. 96-129).  
Added by Acts 1983, 68th Leg., p. 4914, ch. 873, Sec. 1, eff. Aug. 29, 1983.

#### SUBCHAPTER C. ENFORCEMENT

Sec. 117.051. CIVIL PENALTY. A person who violates this chapter or a rule adopted by the commission under this chapter is subject to a civil penalty of not less than \$50 nor more than \$25,000 for each act of violation and for each day of violation, provided that the maximum civil penalty that may be assessed for any related series of violations may not exceed \$500,000.  
Added by Acts 1983, 68th Leg., p. 4914, ch. 873, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1991, 72nd Leg., ch. 724, Sec. 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 92, Sec. 2, eff. Sept. 1, 1993.

Sec. 117.052. ENFORCEMENT BY COMMISSION AND ATTORNEY GENERAL. (a) If it appears that a rule of the commission has been or is being violated, the commission may have a civil suit instituted in a district court for injunctive relief to restrain the person from continuing the violation or for the assessment and recovery of a civil penalty under Section 117.051 of this code, or for both the injunctive relief and the civil penalty.

(b) On application for injunctive relief and a finding that a person has violated or is violating this chapter or a rule of the commission adopted under this chapter, the district court shall grant the injunctive relief the facts so warrant.

(c) At the request of the commission, the attorney general shall institute and conduct a suit in the name of the state for injunctive relief to recover the civil penalty, or for both injunctive relief and the civil penalty.  
Added by Acts 1983, 68th Leg., p. 4914, ch. 873, Sec. 1, eff. Aug. 29, 1983.

Sec. 117.053. CRIMINAL PENALTY FOR VIOLATION OF CHAPTER AND RULES. (a) A person who intentionally violates this chapter or a rule adopted under this chapter commits an offense.

(b) An offense under this section is punishable by a fine of not more than \$25,000, confinement in the Texas Department of Corrections for a term of not more than five years, or both such fine and imprisonment.  
Added by Acts 1983, 68th Leg., p. 4914, ch. 873, Sec. 1, eff. Aug. 29, 1983.

Sec. 117.054. CRIMINAL PENALTY FOR INJURING OR DESTROYING PIPELINE FACILITIES. (a) A person who intentionally injures or destroys or attempts to injure or destroy any pipeline facility in this state commits an offense.

(b) An offense under this section is punishable by a fine of not more than \$25,000, confinement in the Texas Department of Corrections for a term of not more than 15 years, or both such fine and imprisonment.  
Added by Acts 1983, 68th Leg., p. 4914, ch. 873, Sec. 1, eff. Aug. 29, 1983.

#### SUBCHAPTER D. MISCELLANEOUS PROVISIONS

Sec. 117.101. LIMITATIONS ON POWERS OF CITIES. (a) Except as otherwise provided by this subchapter, this chapter may not be construed to reduce, limit, or impair the authority provided by law to any city.

(b) Except as provided by Subsection (c) of this section, a city may not adopt or enforce an ordinance that establishes safety standards or practices applicable to the pipeline transportation of hazardous liquids or carbon dioxide or hazardous liquid or carbon dioxide pipeline facilities that are subject to regulation by federal or state law.

(c) A city may adopt ordinances that establish conditions for installing or relocating pipelines over, under, along, or across public streets and alleys within the boundaries of the city.  
Added by Acts 1983, 68th Leg., p. 4914, ch. 873, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1993, 73rd Leg., ch. 28, Sec. 7, eff. Sept. 1, 1993; Acts 2005, 79th Leg., ch. 530, Sec. 3, eff. Sept. 1, 2005; Acts 2005, 79th Leg., ch. 720, Sec. 1, eff. Sept. 1, 2005.

Sec. 117.102. AUTHORITY OF CITY TO ASSESS CHARGES. (a) Except as otherwise provided by this section, a city may not assess

a charge for the placement, construction, maintenance, repair, replacement, operation, use, relocation, or removal of a hazardous liquid or carbon dioxide pipeline facility on, along, or across a public road, highway, street, alley, stream, canal, or other public way.

(b) A city may:

(1) assess a reasonable annual charge for the placement, construction, maintenance, repair, replacement, operation, use, relocation, or removal by an owner or operator of a hazardous liquid or carbon dioxide pipeline facility on, along, or across the public roads, highways, streets, alleys, streams, canals, or other public ways located within the city and maintained by the city; and

(2) recover the reasonable cost of repairing damage to a public road, highway, street, alley, stream, canal, or other public way located within the city and maintained by the city that is caused by the placement, construction, maintenance, repair, replacement, operation, use, relocation, or removal of a hazardous liquid or carbon dioxide pipeline facility if the owner or operator of the facility does not repair the damage in accordance with generally applicable paving standards or other applicable standards in the city.

(c) A charge authorized by Subsection (b)(1) may not exceed the cost to the city of administering, supervising, inspecting, and otherwise regulating the location of the pipeline facility, including maintaining records and maps of the location of the pipeline facility.

(d) The owner or operator of a pipeline facility may appeal the assessment of a charge under Subsection (b)(1) to the commission. The commission shall hear the appeal de novo. Unless the city that assessed the charge establishes that the charge is authorized by this section, the commission shall declare the charge invalid or reduce the charge to an amount authorized by this section. The commission has exclusive jurisdiction to determine whether a charge under Subsection (b)(1) is authorized by this section. The owner or operator of the pipeline facility and the city shall share equally the costs incurred by the commission in connection with the appeal.

(e) A city must file suit to collect a charge authorized by Subsection (b)(1) not later than the fourth anniversary of the date the charge becomes due. The running of the limitations period under this subsection is tolled on the filing of an appeal of the charge under Subsection (d) and begins running again on the date the appeal is determined.

(f) This section may not be construed to prevent a city from:

(1) recovering the reasonable cost of repairing damage to a city facility, other than a public way, caused by acts of the owner or operator of a pipeline facility; or

(2) requiring the owner or operator of a pipeline facility to relocate the pipeline facility, at the owner's or operator's expense, to permit the construction, maintenance, modification, or alteration of a city facility.

(g) Notwithstanding Subsection (f)(2), the city shall pay the cost of relocating a pipeline facility if the pipeline facility is authorized by a property right that has priority over the city's right to use the public way for the city facility.

Added by Acts 2005, 79th Leg., ch. 530, Sec. 4, eff. Sept. 1, 2005; Acts 2005, 79th Leg., ch. 720, Sec. 2, eff. Sept. 1, 2005.